HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 687 of 2001 (SS)
(Old No. 10805 of 1998)

Smt. Sarita Mishra .....Petitioner

Versus

1. The District Magistrate, Uttarkashi
2. The District Basic Education Officer, Uttarkashi ..... Respondents

Sri V.B.S. Negi, Advocate for the petitioner.
Standing counsel for the respondents.

Dated: 18.5.2005

Hon'ble Rajesh Tandon, J.

Heard the learned counsel for the parties.

By the present writ petition the petitioner has prayed for a writ of certiorari quashing the order dated 16.3.1988, passed by the respondent no.2, annexure-5 to the writ petition.

Briefly stated, the petitioner was appointed as Assistant Teacher vide letter dated 31.12.1997 by the respondent no.2., the petitioner joined her duty at Primary School, Bagsari, Dhanari, District Uttarkashi. On 3.3.1998 the District Magistrate, Uttarkashi wrote a letter to the respondent no.2 that the appointment of the petitioner is not valid and the same be cancelled. Pursuant to that letter appointment of the petitioner has been cancelled vide order dated 16.3.1998. Feeling aggrieved the petitioner has filed the present writ petition.

The contention of the petitioner is that she appeared in the interview held on 13.12.1995 and she was duly selected for

the post of Assistant Teacher. Select list was published by the authorities of the Department and in the select list her name was shown at serial number 40 amongst the successful candidates. Her bio-data and educational certificates were got verified by the authorities and thereafter in view of the letter of the Secretary of the Basic Shiksha Parishad, Allahabad dated 28.12.1996 and the Additional Director of Education, (Basic) Pauri Garhwal dated 167.5.1997, appointment letter was issued to the petitioner. Pursuant to the appointment letter she reported for duty at Primary School, Baxari, Dhanari on 12.1.1998. The petitioner alleged mala fide on the part of authorities concerned that without any notice or without assigning any reason, her services were terminated.

At the time of filing of the writ petition, the Court passed the following interim order:

"* * * * * *The petitioner has challenged the order of cancellation for appointment as Assistant Teacher in Primary Vidhyalaya Buxari (Dhanari) District Uttarkashi. By the impugned order dated 16.3.1998 passed by the District Basic Education Officer, the appointment of the petitioner has been cancelled without assigning any reason. There is a note, however, that the order is passed in pursuance of the letter issued by the District Magistrate dated 3.3.1998.*

Considering the facts and the circumstances of the present case, the operation of the impugned order dated 16.3.1998 shall remain stayed. It is, however, made clear that the District Basic Education Officer can pass a fresh order after affording opportunity to the petitioner in respect of the cancellation of the appointment in accordance with law. This

interim order shall remain operative till the next date of listing."

In view of the above, the impugned order dated 16.3.1998 is set aside and the interim order is made absolute.

Accordingly the writ petition is allowed. No order as to costs.

Rajesh Tandon J.

18.5.2005
*Dhyani